





Read *Thought Reform 101* by Alan Charles Kors.



Read *Memo to Free Speech Advocates* University of

Wisconsin-Madison by Harvey A. Silvergate.

Foundation for Individual Rights
in Education, Inc.
210 West Washington Square
Suite 303
Philadelphia, PA 19106
Phone: (215) 717-3473
(717-FIRE)
Fax: (215) 717-3440
Email: fire@thefire.org

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“corroborating information,” rather than the term “sufficient independent corroboration”, was used. During the fall semester, the College Ad Board’s web site was amended to include an explanatory piece, which states, in part, that corroborating information could include “supporting information [which] includes virtually anything that helps to corroborate a student’s account, including, for example, diary entries or conversations with roommates or friends; it is not limited to eyewitnesses, confessions, or forensic evidence.”

In reviewing the procedures, OCR established the following facts.

When a student files a formal complaint against another student through the Ad Board procedures, the grievant is asked to submit a detailed written statement summarizing his or her complaint along with a descriptive list of all sources of information that may help to corroborate the allegations. The complaint is then forwarded to the secretary of the Ad Board who initiates a preliminary investigation. According to information submitted to OCR by the College, “Once a student’s statement and appendix is submitted, it will be reviewed by [the secretary of the Ad Board] who will collect any other statements or documents that help to corroborate the student’s account...the process is designed to be somewhat fluid; as [the secretary of the Ad Board] reviews a student’s appendix, he may contact the student to raise other potential sources of supporting information.” (*Letter from the College January 30, 2003*). A student grievant’s resident dean serves as the student’s representative on the Administrative Board and is available to assist the student with the statement to the Ad Board by reviewing it for “completeness or clarity and to anticipate questions the statement may raise in the minds of Board members.”

The College advised OCR that, under the new procedures, the Ad Board will proceed with the preliminary stage of investigation whether or not a student filing an Ad Board complaint has a list of supporting information. The Ad Board will request that the respondent student prepare a written statement including a list of supporting information, to be submitted to the Ad Board secretary. After both students have submitted statements, the full Ad Board will review the complaint, and decide on the next course of action, which may be to send it to subcommittee for further investigation and hearing, obtain additional information, or decline to pursue the complaint if further investigation appears unlikely to result in any additional information which would assist in assessing the credibility

of one student's word against another's.

According to informational material presented to student organizations and staff on the new Ad Board procedures for peer disputes, "assessments about credibility are also made by the Board and may themselves serve a kind of supporting information."

The College, in its guidance to students and staff, has stated that the new procedures have not created any change in evidentiary standard used by the Ad Board in rea

sexual assault access to a prompt and equitable process for resolving the complaint. The revisions have created a two-part process. In the preliminary investigation phase, statements and lists of supporting information are sought from both the grievant and the respondent, with the assistance of designated College advisors. The student grievant has considerable opportunity to create the minimal record that would ensure a further investigation that then leads to a full board hearing. However, at the preliminary investigation phase, and even without the provision of specific supporting information, the full Ad Board reviews the complaint, as well as any prior information regarding the respondent, and makes assessments of credibility. This same process is used for all peer-to-peer complaints. There are no additional burdens placed on students who have complaints of sexual assault. Title IX does not prohibit the use of due process. Nor does it set specific standards of how much process required. Rather, it allows schools considerable latitude in developing their procedures. In particular, Title IX does not prohibit a process that limits the proceedings if it appears from a reasonable preliminary inquiry that further investigation would not produce evidence that could resolve the complaint. The revisions at issue here, as described in the College's most recent publications and as explained to staff and students, do not unduly interfere with a student complainant's access to a prompt and equitable process for resolving complaints of sexual assault.

Based on the above, OCR did not find sufficient evidence to establish that the changes to the grievance procedures, as explained by College staff, deprive students of access to a process providing a prompt and equitable resolution of their complaints. This letter addresses only the limited issue described above. It should not be construed to cover any other part of the grievance procedures, the implementation of the grievance procedures nor any other Title IX issue for which OCR has enforcement authority.

We would like to thank you, your staff, and especially Heather M. Quay, University Attorney, for the cooperation

